

Joint Statement of Objections to Exhibits and Responses

(Except Relevance under FRE 402, 402)

Bradley, et al vs. Zenith Capital, LLC, et al

Case No. C 04 2239 JSW (EMC)

Ex. No.	Description	Objection	Response	Ruling (O or S)
5	Summary (FRE1006) - "San Diego Trips by Defendants"	foundation/authenticity	This summary is compiled from defendant Zenith's Quickbooks program (1996 - 2005) produced only in electronic format. The method of compilation was explained by telephone and e-mail to defendants, and no objections were voiced. An associate can testify to foundation.	O, subject to laying proper foundation
32	Expert Calculation of Alpha for well-known funds for the same time period shown in the GMM Performance History	hearsay; authenticity	Plaintiffs' expert designed this spreadsheet calculation and caused it to be created by an associate.	O
33	Global Money Management Receiver's Website, by Charles La Bella: Update from La Bella to GMM Investors re the Reconstruction Effort [www.gmmreceiver.com]	hearsay	Plaintiffs' expert reasonably relied on this information. Defendants' witness list includes the receiver's attorney.	S*
34	March 10, 2004 Letter to Janet Rick Weissman from R. Pullano	hearsay	Plaintiffs' expert reasonably relied on this communication between two government agencies (SEC and NASD). It is not hearsay FRE 803(8).	S*
35	April 4, 2008 E-mail between Conversano and Irish	hearsay	Plaintiffs' expert reasonably relied on this communication between his associate and NASD, a securities regulator.	S*

* Pursuant to Federal Rule of Evidence 703(b), expert may rely on otherwise inadmissible evidence but such evidence may not be made known to jury.

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78	June 30, 1998 Performance History with markings	hearsay; authenticity	Plaintiffs' expert reasonably relied on this document taken from the SEC complaint filed against GMM.	S
158	December 23, 2003 e-mail	privacy	The objection is not precise enough for defendants to respond. The email is by and about defendants Mr. & Mrs. Smith financial condition.	S*
162	November 10, 2003 email	privacy	The objection is not precise enough for defendants to respond. The e-mail is between defendants and dated the day after defendants Smith, Cooper, and Tasker withdrew \$50,000 each from Zenith in anticipation of the receipt of \$176,000 from GMM.	O
165	September 15, 2003 email	privacy	The objection is not precise enough for defendants to respond. The email is by and about defendants Mr. & Mrs. Smith financial condition.	S*
174	November 29, 2001 e-mail	atty-client priv	It does not appear that the letter is to an attorney.	O
175	March 27, 2001 email	privacy	The objection is not precise enough for defendants to respond. The email is by and about defendants Mr. & Mrs. Smith financial condition.	O
242	January 7, 2003 e-mail	atty-client priv	The e-mail is not to or from an attorney	O
243	January 7, 2003 e-mail	atty-client priv	Defendants have waived any privilege. They raise advice of counsel as a defense. They testified at multiple depositions about advice from this attorney	O (subject to offer of proof re waiver)

* sustained unless relevant to punitive damage proceeding

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603	A transcript of factual basis for Friedman guilty plea	Plaintiffs: This transcript is hearsay and is cumulative to stipulated fact number 5 of the proposed pretrial order (Friedman pled guilty)	It is a record of a federal district court, the findings of fact are subject to judicial notice under FRE, Rule 201, and it is not hearsay (FRE 803(8)); it is not cumulative because it recites the factual basis for the plea, not merely the plea itself.	S
605	Indictment of Swiderski, Levy, Friedman	Plaintiffs: This indictment is hearsay and is cumulative to stipulated fact number 5 and 6 of the proposed pretrial order (Friedman, Levy pled guilty)	It is a record of a federal district court; it is not cumulative because it recites the factual basis for the indictments; it is not hearsay (FRE 803(8)).	S
609	March 3, 2006 letter by an NASD paralegal	Plaintiffs: This is hearsay. It was first given to plaintiffs on October 8, 2008 in violation of FRCP 26. It was not relied upon by defendants' expert.	It is a response by government agency to a valid subpoena; defendants' expert reasonably relied on this communication from a government agency (NASD); it is not hearsay (FRE 803(8)).	S
610	Subpoena for NASD disciplinary records	Plaintiffs: This is hearsay. It was first given to plaintiffs on October 8, 2008 in violation of FRCP 26. It is from another investor's lawsuit against these defendants and contravenes the court's ruling on motions in limine.	It was a valid subpoena that provides the foundation for exhibit 609.	S
710	April 14, 2004 letter by defense counsel to the GMM Receiver	Plaintiffs: This is hearsay and there is no witness who can testify to its admissibility. This 26 page letter is a complex description of alleged corporate transactions and holdings by, and in, companies not involved in this lawsuit and is therefore an undue consumption of time.	The addressee, Andrew Roberts, Esq. is a witness for the defendants; the 3-page letter with 23 pages of attachments, and Roberts' testimony, are important rebuttal to parts of plaintiffs' expected evidence regarding defendants' alleged malice and LF Global's purchase of an ownership interest in Zenith for \$350,000.	S